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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,023	12/09/2003	Douglas W. Gerhart	09232.0002	2764
22852 7590 04/04/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER WEIS, SAMUEL				
ART UNIT		PAPER NUMBER		
3693				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/730,023

**Applicant(s)**

GERHART ET AL.

**Examiner**

SAMUEL S. WEIS

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/CE)  
Paper No(s)/Mail Date 04222004, 04072005, 05182006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

### DETAILED ACTION

1. This is in response to the Applicants' application filed on December 9, 2003.

Claims 1-21 have been examined.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Neyman et al., U.S. Pat. No. 7,333,952 (hereinafter, Neyman).

As to claims 1-15, Neyman discloses a method, system, and computer program product for facilitating the sale of fungible assets (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2) comprising:

receiving a plurality of linked orders, each linked order including a plurality of discrete orders for fungible assets, and for each discrete order, a set of parameters (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

matching a received linked order with at least one other linked order based upon the set of parameters for the received linked order and the set of parameters for the other linked order (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); and

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facilitating execution of the plurality of discrete orders of the matched received linked order contingent upon also facilitating execution of the plurality of discrete orders of the other linked order, wherein either all discrete orders are executed or none are executed (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); wherein the plurality of discrete orders of the matched received linked order are executed contemporaneously with the plurality of discrete orders of the other linked order (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); wherein the set of parameters for a discrete order includes parameters specifying a market, a limit price, and a quantity (abstract, claims 1-4, col. 2, line 57- col. 4, line 4); wherein the plurality of linked orders includes discrete orders for two or more different fungible assets that trade in two or more different markets (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); storing a received linked order in an order book if the matching step fails to find a match for the received linked order (col. 7, line 61 –col. 8, line 60); and matching the stored received linked order with a subsequently received linked order (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2).

As to claims 16-21, Neyman discloses a system and method for managing linked markets for fungible assets (abstract, claims 1-4, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); comprising:

a database comprised of entries of discrete order information, wherein each entry for discrete order information includes data identifying a fungible asset, data identifying a quantity of the fungible asset, data identifying a limit price for the fungible asset, data

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identifying the type of transaction desired, and data identifying a database comprised of entries of discrete order information, wherein each entry for discrete order information includes data identifying a fungible asset, data identifying a quantity of the fungible asset, data identifying a limit price for the fungible asset, data identifying the type of transaction desired, and data identifying a participant responsible for the entry, and wherein the fungible asset order information from the database is made available to a plurality of participants (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); and

a computer for maintaining and querying the database and for receiving a linked order, and in response to the linked order (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); the computer:

determining a plurality of discrete orders comprising the received linked order (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); based on the determination, locating in the database a set of stored discrete orders that match parameters of the determined plurality of discrete orders (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

upon locating matching stored discrete orders, facilitating execution of the plurality of discrete orders and the located set of stored matching discrete orders, according to the type of transaction, the fungible asset, the quantity, the limit price, and the participant parameters (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2); and

notifying participants concerning the plurality of discrete orders and the located set of stored matching discrete orders when execution is complete (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

wherein the plurality of discrete orders and the set of stored matching discrete orders are executed contemporaneously (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

wherein the plurality of discrete orders comprising the received linked order include data identifying at least two different fungible assets (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

wherein each entry for discrete order information further includes data identifying a linked order that includes the discrete order (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2);

wherein if a match is not located, the computer stores entries of discrete order information for the plurality of discrete orders comprising the received linked order in the database (abstract, claims 1-4, col. 1, lines 18-29, col. 2, line 57- col. 4, line 4, col. 4, line 52-col. 5, line 2).

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire

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reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL S. WEIS whose telephone number is (571)272-1882. The examiner can normally be reached on 8:30 to 5, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stefanos Karmis/

Primary Examiner, Art Unit 3693